



Linda S. Adams
Secretary for
Environmental Protection

**California Regional Water Quality Control Board
North Coast Region
John W. Corbett, Chairman**

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Arnold
Schwarzenegger
Governor

September 20, 2007

In the Matter of
Water Quality Certification

for the

**MENDOCINO COUNTY DEPARTMENT OF TRANSPORTATION,
WILLIS AVENUE CULVERT REPLACEMENT PROJECT
WDID NO. 1B07120WNME**

APPLICANT:	Mendocino County Department of Transportation
RECEIVING WATER:	Laytonville, Sub Area No. 111.33.
HYDROLOGIC AREA:	Eel River Hydrologic Area No. 111.00
COUNTY:	Mendocino County
FILE NAME:	Willis Avenue Culvert Replacement Project

BY THE EXECUTIVE OFFICER:

1. On August 1, 2007, Mendocino County Department of Transportation (Applicant) filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Willis Road Culvert Replacement Project. A fee in the amount of \$60.00 was received on August 1, 2007. Additional fees of \$440.00 were received on September 20, 2007.

Information describing the proposed project was noticed for public comment on the Regional Water Board's website on August 24, 2007. Under Title 23, California Code of Regulations, Section 3858(a): "The executive director or the executive officer with whom an application for certification is filed shall provide public notice of an application at least twenty-one (21) days before taking certification action on the application, unless the public notice requirement has been adequately satisfied by the applicant or federal agency. If the applicant or federal agency provides public notice, it shall be in a manner and to an extent fully equivalent to that normally provided by the certifying agency. If an emergency requires that certification be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with issuance of certification." Due to the nature of emergency associated with this project, 401 Water Quality Certification will be issued during the 21-day public comment period. Public

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comments will still be accepted and reviewed during the entire 21-day comment period.

2. The proposed project is located on Willis Road, approximately 0.10 miles south of Branscomb Road, Laytonville, Mendocino County, (APN No. 014-100-08). The latitude and longitude is 39.6822°N and --123.4839°W. The purpose of the project is the emergency replacement of two damaged culverts to protect public roadways and adjacent business properties. The existing culverts are rusted out and blocked by accumulated sediments causing flooding of nearby businesses. The replacement of the two eroded corrugated metal pipe (CMP) culverts is necessary to keep the road in stable condition as sink holes have formed in the roadway above the culverts.
3. The project involves the replacement of two 36"x 40-ft CMP culverts with two 30" x 40-ft HDPE pipes that will be installed at the same depth and grade as the stream channel bottom. Pit-run rock slope protection (rip-rap) will be placed at the outlet to stabilize the adjacent banks and prevent continuing degradation of the road. Rip-rap will be used at the minimum necessary to stabilize the eroding bank. A backhoe will be used to excavate the existing culverts and place rip-rap along the stream bank. Disturbed soils will be covered by erosion control matting and seeded with native grasses. The area of the stream bank that will be impacted by the work is approximately 60' L x 4' H. Accumulated sediment will be cleared from the culvert outlet and spread out evenly in the immediate downstream channel area. The repaired culvert crossings will be re-paved.
4. The Mendocino County Department of Transportation, as the lead agency for this project, has determined that this project is categorically exempt from provisions of the California Environmental Quality Act (CEQA) under Class 4 CCR 15304 – Minor Alterations to Land.
5. Construction Best Management Practices (BMPs) will be incorporated into the final Project plans in order to reduce and control soil erosion. Work in and around waterways will be conducted during the dry season, and will include installation of construction barrier fencing to preclude equipment entry into sensitive areas, installation of silt fencing or fiber rolls to prevent sediment loss from immediate work area, topsoil salvage and reapplication, and seeding and mulching.
6. Applicant has applied for a United States Army Corps of Engineers Nationwide Permit 3, August 21, 2007.
7. Applicant has applied for a California Department of Fish and Game 1602 Streambed Alteration Agreement, on April 19, 2007, Notification Number: 1600-2006-0525-3.

Receiving Water: Laytonville, Sub Area No. 111.33,
Eel River Hydrologic Area No. 111.00

Filled or Excavated Area: Permanent Impacts, 0.008 acres

Latitude/Longitude: 39.6822° north, -123.4839° west

Expiration: October 15, 2008.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE WILLIS AVENUE CULVERT REPLACEMENT PROJECT (FACILITY NO. 1B07120WNSO), as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under chapter 28, title 23, California Code of Regulations, and owed by the applicant.
4. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (Enclosed).
5. The Eel River watershed is identified on the State of California Clean Water Act Section 303(d) list. The Eel River is listed as impaired for sediment and temperature. At present, there are no watershed-specific implementation plans for these TMDLs. If TMDL implementation plans are adopted for these watersheds prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plans.

6. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Basin Plan.
7. Applicant shall construct the project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
8. Any change to the operation of the project that would have a significant or material effect on the findings, conclusions, or conditions of this Order shall be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
9. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Order.
10. Applicant shall provide a copy of this Order and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Applicant shall be responsible for work conducted by its contractor or subcontractors.
11. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
12. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
13. If construction dewatering is found to be necessary, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage prior to discharge to surface waters.
14. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United

States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.

15. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other project activities that could result in erosion or sediment discharges to surface water.
16. All conditions required by this Order shall be included in the Plans and Specifications prepared by the Applicant for the Contractor. In addition, the Applicant shall require compliance with all conditions included in this Order in the bid contract for this project.
17. All mitigation activities shall be completed as proposed in the application.
18. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
19. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
20. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board. The successor-in-interest must send to the Regional Water Board Executive Office a written request for transfer of this Order to discharge dredged or fill material under this Order. The request must contain the following:

- a. requesting entity's full legal name
 - b. the state of incorporation, if a corporation
 - c. address and phone number of contact person
 - d. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Order.
21. The authorization of this Order for any dredge and fill activities expires on October 15, 2008. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions or need to report any violation of this Order.

Robert R. Klamt
Interim Executive Officer

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Original sent to: Dharl Smith, Mendocino County Department of Transportation, 340 Lake Mendocino Drive, Ukiah, CA 95482

Copies sent to: Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Ms. Kim Niemeyer and Samantha Olson, SWRCB, Office of the Chief Counsel

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

Mr. Bill Cox, California Department of Fish and Game, P.O. Box 47, Yountville, CA 94599